

SUBJECT: Restricting certain sexually oriented performances

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 9 ayes — Hunter, Dean, Geren, Guillen, Metcalf, Raymond, Slawson, Smithee, Spiller

4 nays — Hernandez, Anchía, S. Thompson, Turner

SENATE VOTE: On final passage (April 5) — 20 - 11

WITNESSES: For — Kelly Neidert, Protect Texas Kids; Austin Griesinger, Texas Family Project; Mary Elizabeth Castle, Jonathan Covey, Texas Values; Michael Belsick; Cary Cheshire; Robert L. Green; Reagan Green; Luke Macias (*Registered, but did not testify*: Tom Glass, Texas Constitutional Enforcement; Cindi Castilla, Texas Eagle Forum; Jonathan Saenz, Texas Values; Natalie Ibe, True Texas Project; and eight individuals)

Against — Brian Klosterboer, ACLU of Texas; Patrick Buchta, Austin Texas Musicians; Stephanie Perdue, Central Texas Pride Community Center, LGBT-Rex; Ricardo Martinez, EQTX Equality Texas; Ray Purser, Greater Houston LGBT Chamber; Fr Kristin Braun, HJAN; and 31 individuals (*Registered, but did not testify*: Ash Hall, ACLU of Texas; Nokita Moore, ACT 4 SA; Courtney Toretto, Anti-Defamation League; Garrett Chase, Avree Koffman, Marcus Sanchez, Azucena Vega, ASHwell; Tina Cannon, Austin LGBT Chamber of Commerce; Alex Evans, AVOW Texas; Brie Franco, City of Austin; Nadia Islam, City of San Antonio; Gabrielle McGeein, Clever Baking LLC; Allyson Garro, Coco Coquette LLC; Katelynn Gaebe, Cosmic Wax Studio; Daniel Rivera, Drag Artist; Chloe Goodman, Jason Guidangen, Sofia Sepulveda, Equality Texas; Cathryn Torres, Frontera Fund; Heather Allison, Fund Texas Choice; Clint Birdsong, Nicholas Ramsey, Human Rights Campaign; Tammi Wallace, LGBTQ Chambers of Texas; Bill Kelly, Mayor's Office, City of Houston; Nicole Soumbeniotis, Once Over Coffee Bar; Darcy Caballero, Planned Parenthood Texas Votes; Andrea Segovia, TENT; Leonard Aguilar, Texas AFL-CIO; Eli Melendrez, Texas

American Federation of Teachers; Angela Hale, Texas Competes Actions; Rocio Fierro-Perez, Texas Freedom Network; Christopher Hamilton, Texas Health Action; Erin Walter, Texas Unitarian Universalist Justice Ministry; Sadie Hernandez, Transgender Education Network of Texas; Katherine Schmader, Cynthia Van Maanen, Travis County Democratic Party; Jimmie Parker, Weird City Sisters of Perpetual Indulgence; Nicole Ma, Quynh-Huong Nguyen, Sarah Syed, Steven Wu, Woori Juntos; and 803 individuals)

On — Michael Nguyen, Caven Enterprises, Inc; Arthur Hood, HV Entertainment LLC, TX Arts and Commerce Non Profit; and six individuals (*Registered, but did not testify*: Ann Graham, Texans for the Arts; Lisa Kaufman, Texas Cultural Trust)

BACKGROUND: Some have suggested that legislation is needed to ensure that children are not exposed to inappropriate sexually oriented performances in public places.

DIGEST: CSSB 12 would make it a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) for a person to engage in a sexually oriented performance on public property at a time, in a place, and in a manner that could reasonably be expected to be viewed by a child or on the premises of a commercial enterprise in the presence of an individual younger than 18. The bill would define 'sexually oriented performance' as a visual performance that featured a performer who was nude or engaged in sexual conduct, as defined by the bill, and that appealed to the prurient interest in sex. The conduct would be an offense regardless of whether compensation for the performance was expected or received.

The bill also would prohibit a person who controlled the premises of a commercial enterprise from allowing a sexually oriented performance to be presented on the premises in the presence of an individual younger than 18. A person who violated this prohibition would be liable for a civil penalty of up to \$10,000. The attorney general could bring an action to recover the civil penalty or obtain an injunction to restrain the violation. The action could be brought in a district court in Travis County or a

county in which any part of the violation occurred. The attorney general would deposit the civil penalty in the state treasury general revenue fund, and could recover reasonable expenses.

The bill would authorize a municipality or county to regulate sexually oriented performances as necessary to promote public health, safety, or welfare, and would prohibit a municipality or county from authorizing a sexually oriented performance on public property or in the presence of an individual younger than 18.

The bill would provide for the severability of its provisions.

CSSB 12 would take effect September 1, 2023.